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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Visit to Romania undertaken from 3 to 12 May 2016: observations and recommendations addressed to the State party

**Report of the Subcommittee*, **

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the State party on 15 February 2017. On 11 August 2017, the State party requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

** The annexes to the present document are being circulated as received, in the language of submission only.

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Contents

		Page
I.	Introduction	3
II.	Facilitation of the visit and cooperation	3
III.	Reprisals	3
IV.	Implementation of the Optional Protocol: the national preventive mechanism	4
V.	Overarching issues	6
	A. Normative, institutional and policy framework	6
	B. Resources	9
	C. Registers	9
	D. Segregation of detainees	9
	E. Torture and ill-treatment	10
	F. Complaint mechanisms	11
	G. Health	12
VI.	Situation of persons deprived of their liberty	13
	A. Police detention	13
	B. Penitentiary institutions	14
	C. Centres for migrants and asylum seekers	17
	D. Psychiatric institutions	18
VII.	Follow-up and dissemination	20
Annexes		
I.	List of places of deprivation of liberty visited by the Subcommittee	21
II.	Officials and other persons with whom the delegation met	22

I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment carried out its first regular visit to Romania from 3 to 12 May 2016.

2. The Subcommittee members conducting the visit were: Aisha Shujune Muhammad (head of delegation), Suzanne Jabbour, Miloš Janković and Margarete Osterfeld. The Subcommittee was assisted by three human rights officers from the Office of the United Nations High Commissioner for Human Rights, United Nations security officers and interpreters.

3. During the visit, the Subcommittee conducted 30 visits to places of deprivation of liberty, including two follow-up visits. The delegation visited police stations, prisons, accommodation centres for migrants and asylum seekers, retirement homes, family-type accommodations for children and psychiatric institutions (see annex I). The members of the delegation held meetings with the relevant authorities of Romania, the People's Advocate, representatives of the national preventive mechanism, members of civil society and the United Nations representative in Romania (see annex II).

4. At the conclusion of the visit, the delegation presented its confidential preliminary observations orally to the authorities of Romania. In the present report, the Subcommittee presents its findings and recommendations concerning the prevention of torture and ill-treatment of persons deprived of their liberty in Romania. In the report, the Subcommittee uses the generic term "ill-treatment" to refer to any form of cruel, inhuman or degrading treatment or punishment.

5. The report will remain confidential until such time as the authorities of Romania request the Subcommittee to make it public, in accordance with article 16 (2) of the Optional Protocol. The Subcommittee draws the State party's attention to the Special Fund established under the Optional Protocol, as recommendations contained in public Subcommittee visit reports can form the basis of an application for funding of specific projects under the Special Fund.

6. **The Subcommittee recommends that the authorities of Romania request the publication of the present report in accordance with article 16 (2) of the Optional Protocol. It also recommends that the State party distribute the report to all the relevant government departments and institutions.**

II. Facilitation of the visit and cooperation

7. The Subcommittee wishes to express its gratitude to the authorities for their cooperation and facilitation of the visit. In particular, it would like to thank the Government of Romania for all the information received before and after the visit, for issuing credentials for unrestricted access to places of detention and for facilitating the coordination of the Subcommittee visit on the ground. The authorities granted access to all places visited by the Subcommittee and the delegation was able to conduct private interviews of its choice in all the detention facilities visited.

III. Reprisals

8. The Subcommittee is concerned about the possibility of reprisals against persons interviewed during the visit. It wishes to emphasize that any form of intimidation or reprisals against persons deprived of their liberty constitutes a violation of the State party's obligation to cooperate with the Subcommittee under the Optional Protocol. In accordance with article 15 of the Optional Protocol, the Subcommittee urges the authorities in Romania to ensure that there are no reprisals following the delegation's visit. It also wishes to draw

the attention of the authorities to the Subcommittee's policy on reprisals in relation to its visiting mandate (CAT/OP/6/Rev.1).

9. **The Subcommittee categorically condemns any act of reprisal. It stresses that persons who provide information to or cooperate with national or international agencies or institutions should not be punished or otherwise penalized for having done so. The Subcommittee requests that it be kept informed of the steps taken by the State party to prevent and investigate any possible acts of reprisal. It also requests the State party to provide in its reply detailed information on what it has done to prevent the possibility of reprisals against anyone who was visited by, met with or provided information to the Subcommittee during the course of the delegation's visit, as well as information on measures taken to act upon such allegations.**

IV. Implementation of the Optional Protocol: the national preventive mechanism

10. Romania ratified the Optional Protocol on 2 July 2009 and upon ratification postponed its obligations under part IV for a period of three years. In 2012, the State party requested, under article 24 (2) of the Optional Protocol, an extension of this postponement for an additional two years.[1] Emergency ordinance No. 48 of 2014, designating the People's Advocate as the national preventive mechanism, was approved by the Romanian parliament through Law No. 181 of 28 December 2014, which also amended the founding legislation of the People's Advocate (Law No. 35 of 1997) by adding the national preventive mechanism role.

11. When performing activities specific to the mandate of prevention of torture, the members of the team conducting visits to places of detention are independent.[2] The Subcommittee observes that, other than general provisions stating that the People's Advocate is independent from other public authorities, there was no reference to the independence of the national preventive mechanism or its members.

12. The Subcommittee notes with concern that the lack of budgetary independence has a generally negative impact on the independent functioning of the national preventive mechanism. As its funding comes under the general budget of the office of the People's Advocate, accessing sufficient ring-fenced allocations for the mechanism remains a challenge, hampering its ability to function. For example, the mechanism cannot cover transportation costs related to detention visits nor can staff undertake any other forms of activity.

13. **The Subcommittee reminds the State party that the provision of adequate financial and human resources to the national preventive mechanism constitutes a legal obligation under article 18 (3) of the Optional Protocol, and wishes to be informed about the steps the State party intends to take to make such provision.**

14. **The Subcommittee recommends that the Government of Romania provide the human resources and adequate funding necessary for the effective functioning of the national preventive mechanism through a specific budget line, and grant the mechanism the institutional autonomy to use its resources. The necessary resources should be provided to permit the effective operation of the mechanism, which should enjoy complete financial and operational autonomy when carrying out its functions under the Optional Protocol. The funds should be predictable, to allow the national preventive mechanism to develop its annual workplan and visits well in advance and to plan its cooperation with other partners.**

15. According to information received during the visit, the national preventive mechanism carries out the following types of visits: ex officio, on the basis of an annual visit plan or unannounced; on the basis of a petition; or upon becoming aware of a situation

[1] Note verbale dated 9 July 2012 from the Permanent Mission of Romania to the United Nations Office and other international organizations in Geneva.

[2] Law No. 35 of 1997, as amended, art. 29[1] (3).

where torture or cruel, inhuman or degrading treatment or punishment occur in a place of detention. The team conducting visits comprises at least one physician and one representative of a non-governmental organization; the latter is selected by the People's Advocate.

16. **The Subcommittee welcomes the cooperation established between the national preventive mechanism and civil society organizations. It recommends that the State party encourage the mechanism to engage more directly and independently with civil society organizations, including, at a minimum, through their increased participation in visits conducted by the mechanism, in report writing and in dialogue with the authorities.**

17. The Deputy Ombudsman holds the torture prevention mandate, as head of the national preventive mechanism, and drafts the annual report of the mechanism, which, as part of the annual report of the People's Advocate, is subject to the approval of the People's Advocate.[3] The need for such approval and the inclusion of the mechanism's report in the annual report of the People's Advocate may compromise the perceived or actual independence of the mechanism.

18. During its meetings with authorities and visits to places of deprivation of liberty, the members of the Subcommittee delegation observed an absence of any coherent policy regarding post-visit follow-up to national preventive mechanism recommendations. The national preventive mechanism should be encouraged to develop a strategy for publishing its visit reports and presenting them to the authorities in order to use them as a platform for dialogue.[4]

19. **The State authorities and the national preventive mechanism should enter into a meaningful process of continuous dialogue, with a view to implementing the recommendations of the mechanism. The Subcommittee recommends that the State party publish and widely disseminate the annual reports of the national preventive mechanism. It also recommends that the State party introduce an institutional forum for the discussion of and follow-up to annual reports of the mechanism.**

20. The Subcommittee understands that any person in detention has the right to submit a petition to the Office of the People's Advocate. The official holding the mandate on the prevention of torture rules on petitions submitted in relation to alleged acts of torture, cruel, inhuman or degrading treatment or punishment.[5] The Subcommittee was informed that in 2015, the office of the People's Advocate registered 461 petitions and carried out 36 investigations in places of detention.[6]

21. The Subcommittee is concerned about the national preventive mechanism's understanding of the preventive approach as prescribed by the Optional Protocol. The Subcommittee considers it crucial that the mechanism develop and set out a clear vision of its approach to torture prevention and have comprehensive strategies to fulfil its preventive mandate. To avoid possible confusion or duplication of mandates, the People's Advocate should make a clear distinction between the mandate of the national preventive mechanism and the other functions of the People's Advocate. Individual complaints should be handled by the People's Advocate and should not be part of the mandate of the national preventive mechanism.

22. The Subcommittee emphasizes that the national preventive mechanism should complement rather than replace existing systems of oversight in Romania, and its functioning should take into account effective cooperation and coordination between preventive mechanisms in the country. The national preventive mechanism, in cooperation with the People's Advocate, should clearly separate the mandates of the two bodies so that each can carry out all aspects of their respective mandates effectively.

[3] Emergency ordinance No. 48, art. 29[10] (1).

[4] See CAT/OP/1/Rev.1, para. 32 and CAT/OP/12/5, para. 38.

[5] Act No. 35 of 1997, as amended, art. 17[1] (3).

[6] Summary of the annual report on activities conducted in the area of prevention of torture in places of detention, published in the annual report of the office of the People's Advocate, p. 3. Available in the files of the secretariat.

23. **The Subcommittee recommends that the national preventive mechanism focus not only on visiting places of deprivation of liberty but also on other preventive activities. It also recommends that the mechanism develop an annual plan of work that includes all preventive activities, such as commenting on draft legislation, awareness-raising and training activities.**

24. The Subcommittee observed a lack of visibility of the national preventive mechanism among the authorities, persons deprived of their liberty and representatives of civil society organizations, which may have a detrimental effect on its efficiency and effectiveness. In the majority of places of deprivation of liberty neither the administration nor persons held were aware of the mechanism's existence and visits. Moreover, the Subcommittee considers that some officials in places of detention are not familiar with the mechanism's recommendations, while others do not receive feedback even after their institutions are visited by the mechanism. The Subcommittee is particularly concerned that the mechanism cannot guarantee protection from reprisals for those with whom it meets.

25. **The Subcommittee recommends that the State party increase the visibility of the national preventive mechanism, including through activities that raise awareness of the Optional Protocol and of the mandate of the mechanism. The mechanism's recommendations should be prominently discussed and addressed. To this end, the Subcommittee recommends that the national preventive mechanism enhance its advocacy with institutions where persons are deprived of their liberty, with relevant ministries and with legislators. The Subcommittee also recommends that the State party support such exchanges. Moreover, the national preventive mechanism should engage in legislative processes and advocacy, which such mechanisms are encouraged to undertake under article 19 of the Optional Protocol and which increase the overall visibility of the mechanism.**

26. **The Subcommittee also recommends preparing further materials on the national preventive mechanism's mandate and activities and distributing them to personnel and detainees in the places of deprivation of liberty and to civil society at large.**

27. **The Subcommittee recommends that the State party build the capacity of newly appointed staff members of the national preventive mechanism and intensify training of all participants in the work of the mechanism. It also recommends that the mechanism continue to develop its capacity by increasing its cooperation with the Subcommittee and by engaging with other national preventive mechanisms and appropriate national preventive mechanism networks.**

V. Overarching issues

A. Normative, institutional and policy framework

28. The Subcommittee welcomes the comprehensive legal framework in the area of torture prevention, which is, to a large extent, adequate, and congratulates Romania for the numerous legislative reforms undertaken. The definition of torture in domestic legislation,[7] the existing legal safeguards against torture and ill-treatment and the legal protection of the rights of persons deprived of their liberty generally correspond with international standards. However, the Subcommittee is seriously concerned about the gap that was often observed between the legal framework and its application in practice, as some legal protections did not appear to be implemented consistently.

29. The delegation noted that a considerable number of persons deprived of their liberty suffered from a lack of information on the charges brought against them or the status of their case, even though all detainees interviewed were represented by legal-aid lawyers. While information on the detainees' rights was usually available in detention facilities, it was generally limited to a compilation of laws, which most people did not understand and

[7] Penal Code, art. 282.

which was not available in any minority or foreign languages, including in facilities dedicated to foreign nationals. The delegation was, however, encouraged to see that LCD monitors providing access to national legislation and selected international instruments pertaining to detainees' rights had been installed in common spaces of some of the prisons visited.

30. **The Subcommittee recommends that the State party strengthen its efforts to fully implement its domestic legislation related to torture prevention. It recommends that Romania ensure that instructions be given to detention officers to safeguard the effective and systematic implementation of the right of each person deprived of liberty to be informed orally and in writing of the reason for his or her arrest and of his or her rights during detention, in a simplified form and in a language that they can understand, at the outset of detention. Such information should include any entitlement to pardon, commutation of sentences, parole, release and other forms of early release. It also recommends the production, dissemination and distribution of posters, booklets and other outreach materials for detainees with information on rights, expressed in clear, easy-to-read language.**[8]

31. The delegation observed that many detainees interviewed had been strongly encouraged to confess upon arrest or during the initial stage of their detention in order to benefit from a shorter term of imprisonment, as provided for in articles 374 (4) and 396 (10) of the Criminal Procedure Code. While the Code requires corroborative evidence in the event of a confession, the delegation is concerned that, in practice, the above-mentioned provisions may lead to an overreliance of the law enforcement and justice sectors on confessions.

32. **The Subcommittee recommends that Romania ensure access by detainees to a lawyer of their choice immediately after their arrest and that detainees have their lawyer present during interrogation. The State party should extend and strengthen the currently overstretched system of legal aid, so as to ensure effective and quality representation for all detainees, on an equal basis.**[9] **It should also consider amending the Criminal Procedure Code with a view to repealing any provision that may constitute an incentive to extract confessions.**

33. The Subcommittee notes with concern that, under article 31 of Law No. 218 of 2002, persons can be detained administratively for 24 hours in police stations, without sufficient safeguards, which leaves detained persons vulnerable to ill-treatment and torture by police officers. In this regard, the Subcommittee notes the findings of the Special Rapporteur on extreme poverty and human rights concerning police abuse, especially against Roma (see A/HRC/32/31/Add.2, paras. 24–29), and the information shared by civil society organizations indicating that vulnerable and marginalized groups are most affected, including Roma, homeless persons, sex workers, drug users and transgender persons. Considering that most people interviewed provided their statements in relation to the crime upon arrest or during the initial stage of their detention, and given the high percentage of confessions, the insufficient safeguards during police detention are of grave concern.

34. **The Subcommittee recommends that persons deprived of their liberty be provided with fundamental safeguards, including the rights to inform a third party of the detention and to have access to a lawyer promptly after their initial detention or arrest and after any transfer from one place of detention to another.**

35. The Subcommittee notes that penal reform, which led to the adoption of the new Penal Code and new Code of Criminal Procedure (in force as of February 2014), introduced provisions for probation, early release measures and alternatives to detention. In view of the high recidivism rate, the Subcommittee welcomes the adoption in 2015 of a national strategy for social reintegration for the period 2015–2019 and measures being taken to

[8] See Committee against Torture, general comment No. 2 (2008) on the implementation of article 2, para. 13, and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rules 53, 54 and 55 (1) and (3).

[9] International Covenant on Civil and Political Rights, art. 14, and the Nelson Mandela Rules, rules 41 (3), 61 (1) and (3) and 119 (2).

increase the institutional capacity for social reintegration within the judiciary and the penitentiary systems.

36. Although alternatives to detention have recently been introduced, interviews with pretrial and convicted detainees and files on record show that the benefit of this change in legislation and policy has yet to affect the majority of persons who come into contact with the law. In particular, the delegation observed with grave concern that pretrial detention does not seem to always be a measure of last resort, including for those below the age of 18.

37. The Subcommittee welcomes the fact that the problems related to overcrowding and material conditions in detention facilities are recognized by the State party and have been identified as government priorities. In spite of some progress that has recently been achieved, the delegation observed that overcrowding remains a serious problem in most places visited and will remain difficult to tackle without a drastic move away from the culture of institutionalization and towards the creation of alternatives to institutionalization in the criminal justice, social security and health-care systems.

38. **The Subcommittee notes that detention should always be a measure of last resort for all persons, especially for those below the age of 18.[10] It urges the State party to more readily use alternatives to detention, such as probation, bail, mediation, community service and suspended sentences. Persons accused of a crime should not be detained unless the crime is serious, there is a danger of the accused absconding or not appearing at trial or the protection of the public or potential interference with witnesses or evidence dictate otherwise. The State party should also ensure that clear criteria for institutionalization in the criminal justice, social security and health-care systems are set, that people being institutionalized are screened effectively to determine whether the criteria for institutionalization are satisfied, and that alternatives to deprivation of liberty are available more readily and efficiently. The State party should also pursue its efforts to improve the social reintegration of inmates with a view to reducing the recidivism rate and the prison population.**

39. The Subcommittee notes that, pursuant to the legislation,[11] conditional release may be ordered if a convict has served at least two thirds of the sentence, if the sentence is less than 10 years, or three quarters of the sentence, if the sentence is 10 to 20 years. Conditional release may be ordered earlier, depending on the age of the detainee and the part of the sentence term considered as served due to the work performed in detention. The delegation, however, heard many complaints about denials and postponements of parole applications, even for first-time offenders sentenced to rather light penalties. Inmates interviewed often did not understand the reasons for postponing their requests, found it unjust and felt they had worked for years in vain, which creates a feeling of injustice leading to frustration. Many inmates interviewed also expressed their concern at discrimination against a large majority of detainees who are not provided with the possibility of engaging in work or training activities due to a lack of opportunities within the penitentiary system.

40. **In order to alleviate overcrowding in prisons, the Subcommittee recommends that the State party systematically consider the possibility of release on parole when the statutory requirements are met. It should also re-examine the process by which the parole committee and the courts assess parole applications, to ensure the transparency and impartiality of the proceedings. All decisions to deny or postpone parole requests should be duly motivated and the information should be shared with the detainee for potential appeal. The State party should also consider amending its legislation on conditional release, to ensure that detainees who have not been able to work due to a lack of working opportunities are not discriminated against.**

[10] See International Covenant on Civil and Political Rights, art. 9; Committee on Human Rights, general comment No. 35 (2014) on liberty and security of person; Convention on the Rights of the Child, art. 37; and United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), rules 13 and 19.

[11] Penal Code, arts. 99–100; Criminal Procedure Code, arts. 587–588; and Law No. 254 of 2013, arts. 95–97.

B. Resources

41. The delegation identified the inadequacy of human and financial resources for the administration of places of deprivation of liberty as an acute problem that requires immediate attention. Understaffing in all areas, including the penal system, the criminal justice system, the social welfare system and the health-care system, is chronic.

42. The delegation noted that prison personnel were often not aware of international human rights standards, practices and protocols they should use while performing their duties. This includes a lack of awareness among medical staff of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol), which is an important tool for identifying and documenting torture and ill-treatment. Such education and training is required not only to ensure accountability but also to prevent human rights violations and foster a culture of respect for human dignity.

43. **The Subcommittee recommends that the State party significantly and urgently increase investment in staff capacity, both in terms of numbers and quality, especially in respect of security staff, psychologists, social workers and medical staff.[17] The authorities should undertake a periodic assessment of the ratio of staff to prisoners to ensure the effective delivery of services and work, education and training activities. It should also review the remuneration packages to ensure that they are attractive and take into consideration the specific nature of the job. Staff should be provided with specific training on stress and risk management and should be offered psychological assistance and support. Training and education on human rights standards, practices and protocols, including the Istanbul Protocol, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), should be provided to prison personnel, including medical and security staff.[18]**

C. Registers

44. While appreciating that the State party has initiated a project in some institutions whereby some records of persons in prisons can be accessed through an electronic database, the delegation observed that the fragmentation and the dispersion of the information, including the alleged incidents to which persons were subjected, made it difficult or impossible to trace the detention's pathway and understand the nature of alleged cases. The Subcommittee recalls that the maintenance of complete and reliable records of persons deprived of their liberty is one of the fundamental safeguards against torture or ill-treatment, and is an essential condition for the effective exercise of due process guarantees, such as the right of the detainee to be brought before a judge promptly and the right to challenge the legality of the detention.

45. **The Subcommittee recommends that the State party extend the project to all institutions, accelerate the process of digitization of prisoners' records and ensure that information about detainees is entered promptly. Meanwhile, paper registers should be simplified and harmonized, and information about detainees should be available centrally, in a comprehensive and systematic manner.[19]**

D. Segregation of detainees

46. The delegation observed that different categories of prisoners were not always separated according to their status, criminal record, legal reason for their detention, age,

[17] Nelson Mandela Rules, rules 74, 75 and 78.

[18] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 10 and the Nelson Mandela Rules, rules 34 and 76 (1).

[19] Nelson Mandela Rules, rules 6–10.

special needs or treatment necessities.[15] In police custody, first offenders were not separated from repeat offenders and children were at times held together with adults.

47. In the prisons visited, accused persons were kept with convicted prisoners and those with infectious or contagious diseases were not separated from healthy detainees in quarantine; this was also sometimes the case in the pretrial detention regime. In addition, the delegation observed that smokers were detained with non-smokers. It also noted with concern that, for the allocation of prisoners to different regimes, due account had not been taken of the gravity of the offence and the vulnerability of the detainees, for instance of young prisoners or of those suffering from psychosocial disorders or mental disabilities.

48. **The Subcommittee recommends that the State party ensure the effective separation of all persons below 18 years of age from adult detainees, of male detainees from female detainees and of pretrial detainees from convicted prisoners and that detainees are separated according to the gravity of the offence.[16] In addition, due account should be taken of the special requirements of the treatment and medical needs of persons affected by infectious or contagious diseases, and smokers should be separated from non-smokers. Measures should also be taken to protect vulnerable persons deprived of their liberty, including children, young prisoners, persons with psychosocial disorders or mental and physical disabilities, minorities and marginalized persons.**

E. Torture and ill-treatment

49. In the police stations visited, the vast majority of detainees with whom the delegation met declared that they had not been subjected to ill-treatment. The delegation has not received any allegations and has not found any evidence of ill-treatment inflicted by security staff in the preventive arrest and detention centres visited.

50. The delegation, however, received an allegation of physical ill-treatment (kicks to the head) allegedly committed in the course of an arrest by the Special Forces of the Directorate for Investigating Organized Crime and Terrorism. Medical evidence consistent with the testimony had been documented in the medical file of the detainee.

51. In some of the prisons visited, the delegation received several concurring testimonies of physical, mental and sexual ill-treatment inflicted on inmates by security personnel, in particular members of special intervention units, or by other detainees, sometimes allegedly with the complicity of prison staff. In Iasi prison in particular, the delegation noted with great concern a culture of fear and violence, where vulnerable persons, especially children, young adults, those who were poor, those without family, those who were illiterate and those belonging to marginalized or minority groups were routinely beaten and abused, physically and sexually, in cells, hallways and stairs that were not monitored by surveillance cameras. The Subcommittee observes that this may be a control strategy used to compensate for understaffing and a lack of monitoring. However, it is not acceptable.

52. The delegation met young inmates that engaged in self-harm by cutting deeply into the skin of their arms or other body parts in order to avoid being beaten by members of the special intervention units.

53. In addition, the delegation observed appalling overcrowding and material conditions in several penitentiary institutions visited, which it considers to amount to cruel, inhuman and degrading treatment.

54. **The Subcommittee recommends that the State party:**

(a) **Ensure that allegations of all forms of violence, torture and ill-treatment are promptly and impartially investigated and that perpetrators are prosecuted for**

[15] Nelson Mandela Rules, rule 11.

[16] International Covenant on Civil and Political Rights, art. 10; Nelson Mandela Rules, rule 11.

torture and ill-treatment, as provided for under articles 281 and 282 of the Penal Code;

(b) **Provide all medical personnel, law-enforcement agencies, judges, lawyers and prosecutors with the training necessary to enable them to identify signs of torture and ill-treatment, including training on the use of the Istanbul Protocol;**[17]

(c) **Ensure that the special intervention units are used as emergency response teams only. The use of force should always be the last resort and the force used should be strictly necessary, proportional and incremental and not abusive and arbitrary. Each officer in the special intervention unit should have a camera on him or her while within and outside the facilities when interacting with inmates. Surveillance cameras should be installed in all common spaces and recorded data should be stored for an adequate period of time;**

(d) **Take specific measures to protect the most vulnerable and marginalized prisoners and ensure they have access to a complaint procedure that is adapted to their needs, child-friendly, accessible and reliable;**

(e) **Respect the strict prohibition on all forms of violence against children and the educational and rehabilitative approaches to children in conflict with the law required under the Convention on the Rights of the Child;**

(f) **Continue and enhance its efforts to improve conditions of detention in places of deprivation of liberty.**

F. Complaint mechanisms

55. The Subcommittee notes that of the 8,634 complaints submitted between 2013 and 2015 for the criminal offences of torture, abusive investigation, ill-treatment and abusive behaviour outlined under articles 280–282 and 296 of the Penal Code, only 22 indictments have been issued for abusive behaviour (art. 296 of the current Penal Code, art. 250 of the former Penal Code) and 2 for abusive investigation (art. 280 of the current Penal Code, art. 266 of the former Penal Code).[18] The Subcommittee is concerned about the absence of any prosecutions leading to convictions on charges of torture or ill-treatment under either the former or current Penal Code since 2013.[19]

56. While noting the existence of different monitoring mechanisms, the Subcommittee is concerned about the lack of effectiveness of the complaint procedures and the overall failure of the State to properly respond to and investigate allegations of torture and ill-treatment.

57. The delegation noticed that very little or no information is provided to inmates on complaint procedures available in the different detention facilities. These mechanisms are largely perceived by detainees as ineffective, non-independent and futile since they fail to provide complainants with substantive hearings or effective remedies. In several detention facilities, the fear of reprisals and the potential impact that such a complaint could have on entitlements, disciplinary measures and conditional release further prevents the use of these mechanisms.

58. **The Subcommittee recommends that the State party consider establishing a separate, fully independent body to receive complaints,**[20] **and that it revise the current complaints procedure with a view to ensuring its confidentiality and effectiveness. The State party should also ensure that judges are automatically informed of all complaints alleging torture and ill-treatment and that such complaints are**

[17] See Committee against Torture, general comment No. 3 (2012) on the implementation of article 14, para. 35.

[18] Information provided in writing by the State party upon completion of the visit.

[19] The Subcommittee echoes similar recommendations made by the Commissioner for Human Rights of the Council of Europe in his report following his visit in 2014 to Romania (para. 205) and by the Special Rapporteur on extreme poverty and human rights following his mission in 2015 to the country (A/HRC/32/31/Add.2, para. 61).

systematically transmitted to the relevant criminal prosecution body for investigation. Persons who have complained about torture and ill-treatment should be protected from physical, disciplinary or administrative reprisals.

G. Health

59. The delegation is concerned about the situation of health care in most facilities visited. Medical services were generally inadequate and insufficiently funded and staffed. The medical staff was not receiving training on specific themes related to health in detention facilities, on health standards in prisons developed by the World Health Organization or on the Istanbul Protocol.

60. Except in psychiatric hospitals, the initial medical examination of persons deprived of liberty was superficial and the description of their health status was incomplete.

61. The delegation also observed that thorough screening for infectious and contagious diseases was not systematically performed upon the arrival of detainees in the detention facility, including for multiresistant tuberculosis. It noted that the prolonged period of placement of new inmates in quarantine (21 days) increased the risk of transmission of infectious and contagious diseases to healthy detainees. Furthermore, the delegation was alarmed by the inadequate screening and assessment of detainees suffering mental disorders and in need of psychosocial care and psychological or psychiatric treatment. The delegation was concerned about the prevalence of self-harm in the prisons visited, which may reflect the lack of appropriate psychological care.

62. Access to qualified professional staff, primary health care and basic medication was problematic in most penitentiary institutions visited, and requests for medical attention often went unattended. The systematic absence of dental, psychological and gynaecological care for persons deprived of liberty was also observed with grave concern.

63. Medical staff working in police facilities and in penitentiary facilities are accountable and answerable to the Ministry of Justice and the Ministry of the Interior respectively, which poses questions of independence and conflict of interest. Further, the delegation noted with concern that medical doctors were asked to give their consent for disciplinary measures, raising issues of dual loyalty.

64. The delegation observed that hygienic conditions in some of the prisons visited were such that they presented a public health hazard.

65. **The Subcommittee recommends that the State party ensure access to and examination by an independent doctor as soon as possible after arrest or transfer to a detention facility, with appropriate recording of medical information in a register, in full respect of medical ethics and deontology. Requests for medical attention by persons deprived of liberty should be attended to in a timely and professional manner, without exception.**[20] **The Subcommittee reminds the State party that it has the primary responsibility for protecting the health and well-being of persons deprived of their liberty.**

66. **The State party should urgently conduct a countrywide audit of the needs in all institutions, in order to meet both basic and specialized health-care needs and facilitate the provision of sufficient medical supplies. The Ministry of Health should be involved in monitoring health in prisons, in the recruitment process of health professionals and in the delivery of training to health professionals.**

67. **The State party should ensure that health professionals are trained to identify injuries that are characteristic of torture or ill-treatment in accordance with the Istanbul Protocol. The Subcommittee recommends that health professionals be available in all places of detention to diagnose, monitor and treat serious withdrawal symptoms and any other consequences of substance abuse.**[21]

[20] Nelson Mandela Rules, rules 24–27, 30 and 31

[21] European Prison Rules, rule 42.3 (d).

VI. Situation of persons deprived of their liberty

A. Police detention

1. Preventive arrest and detention centres

68. The delegation observed that the maximum length of detention of 180 days[22] in preventive arrest and detention centres under the authority of the General Inspectorate of the Romanian Police was generally respected, but remains concerned that the detention of pretrial detainees in those centres does not seem to be limited to exceptional circumstances. It notes that, despite the provisions contained in article 115 (1) of Law No. 254 of 2013 requiring that during the trial phase detainees be transferred to penitentiaries, the delegation met detainees who were being held in preventive arrest and detention centres during their criminal prosecution.

69. The delegation met many children who had spent several months in pretrial detention in preventive arrest and detention centres, some of them being detained with adults, including repeat offenders of serious crimes. The delegation observed that a child's stay in detention can be extended by a judge on purely economic grounds, such as when parents are considered by the court as being unable to support their child at home. The length of pretrial detention of children, combined with poor living conditions, restrictions on family visits and the obligation to stay in cells for long hours, could be considered to amount to ill-treatment.

70. **The Subcommittee recommends that the State party take the measures necessary to increase the use of non-custodial alternatives to pretrial detention, with due regard to international and regional standards. Pretrial detention should be a last resort in criminal proceedings, should only be used for limited periods of time and as determined by law, with due regard to the investigation of the alleged offence and to the protection of society and the victim.**

71. **Children and adolescents should be deprived of their liberty only as a measure of last resort, for the shortest possible period of time and subject to regular review. They should be detained under conditions that protect them from harmful influences and that take account of the needs particular to their age.**[23]

2. Material conditions

72. The delegation observed that almost all preventive arrest and detention centres visited were located in the basement of police buildings. Being placed underground means that the detainees have little or no access to natural light and that ventilation in the cells is limited.

73. While noting that a nationwide project for refurbishing several police detention facilities was under way, the delegation observed that many cells visited were still dilapidated and had inadequate bedding with old and filthy mattresses.

74. It also notes that most of the facilities visited had no common space for recreational and sports activities, leaving detainees with no choice but to languish in their cell almost all day. The walking areas were often very small and sometimes oppressive, fully fenced or surrounded by high walls.

75. The delegation received several complaints about the quality and quantity of the food served in police facilities.

76. **The Subcommittee recommends that the State party speed up its efforts to ensure that material conditions in police facilities comply with international standards, with a particular focus on improving hygiene, food, ventilation, light, bedding and the**

[22] Law No. 135 of 2010 on the Criminal Procedure Code, with further amendments, art. 236, para. 4.

[23] Including the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), rule 6.1.

[24] International Covenant on Civil and Political Rights, art. 10 (2); European Prison Rules, rule 11.

possibility for exercise. The State party should also enlarge and improve walking areas and ensure that all police facilities have common rooms and offer recreational and sports activities. The quality of food served to detainees should be improved.

B. Penitentiary institutions

1. Overcrowding

77. In most prisons visited, the Subcommittee observed severe overcrowding, which posed serious health and hygiene concerns. In addition, most dormitories visited in prison facilities were oversized and equipped with more than 20 beds and only one toilet, which does not allow prisoners any privacy.

78. In Iasi penitentiary, one of the most overcrowded detention facilities visited, 1,507 detainees were being held at the time of the visit, whereas the official capacity was 730 inmates. The delegation visited several cells where inmates had less than 2 square metres each and had to remain on their bed almost all day, due to the shortage of space.

79. **The Subcommittee recommends that the State party take appropriate short- and long-term measures to reduce overcrowding in prisons. Such measures should include the use of non-custodial sanctions and not only the building of new prisons. Detainees should be provided with accommodation that complies with international standards, due regard being paid to the cubic content of air and minimum floor space. The State party should consider dividing large dormitories in order to reduce the number of inmates per cell and improve their privacy.**

2. Material conditions, hygiene and sanitation

80. Material conditions of prison facilities varied between regions. In several of the facilities visited, the material conditions were inadequate as regards minimum floor space per detainee, lighting, heating and ventilation. Some of the prison facilities visited were very old and in a poor state of repair. The general levels of hygiene, access to clean water, and the conditions of toilet facilities gave rise to serious concern. The Subcommittee noted the absence, in all places visited, of furniture for storing prisoners' personal belongings.

81. Detainees generally indicated that the quality and diversity of food was poor and that they relied on food brought by their family or bought in the prison shops to meet their nutrient needs. In the absence of refrigerators and closets, such food was stored underneath the beds, attracting rats and mice.

82. In Poarta Alba prison, 23 detainees were held in a 64-square-metre cell that had one small window of 1 square metre and two filthy toilets, which released a nauseating stench. In another cell where inmates had only 1.3 square metres each, there was mould on the ceiling, mattresses were filthy and inmates complained about bedbugs and hygiene-related diseases.

83. In Iasi prison, some detainees complained about rats coming out of the pipes of the dilapidated sanitary facilities. Others complained about the old and filthy mattresses, bedbugs and cockroaches.

84. **The Subcommittee recommends that the State party speed up its efforts to undertake all necessary refurbishments in all prison facilities in order to improve the material conditions of prisoners' accommodation. The State party should apportion a higher budget for food for prisons.**

85. **Medical doctors should regularly monitor the quality and quantity of food, hygiene and cleanliness as well as the provision of clean water, lighting and ventilation facilities, and should submit periodic reports to the prison director for action.**

3. Confinement of prisoners

86. The delegation observed that detainees in closed and maximum security wards in particular were confined almost all day and night in their cells or dormitories. Furthermore, high-risk prisoners were isolated in their cells for prolonged periods.

87. The Subcommittee considers that detainees cannot simply be left to languish, locked up in their cells. A satisfactory programme of activities, including work, education and sport, is of crucial importance for the well-being and reintegration of prisoners.

88. **The Subcommittee recommends that the State party enable detainees to spend a reasonable part of the day, eight hours or more, outside of their cells or dormitories, together with other prisoners, engaged in purposeful activities of a varied nature.**[25]

4. Treatment of persons with mental disabilities

89. The delegation met several detainees with mental disabilities or suffering from mental disorders who were held in prison facilities with other prisoners. In some facilities the delegation observed that prisoners with mental disabilities were kept alone in their cells for months.

90. The Subcommittee considers that confining prisoners with mental disabilities in prisons is inappropriate and that the practice of confining persons in isolation amounts to ill-treatment.

91. **The Subcommittee recommends transferring prisoners with mental disabilities to specialized facilities to be observed and treated under the supervision of qualified health-care professionals.**[26] **The State party should end the practice of confining persons with mental disabilities alone in their cells for prolonged periods of time.**

5. Work and recreational activities

92. The delegation observed that in some of the prisons visited, a satisfactory programme of work was put in place for detainees. It notes with concern, however, that in many prisons visited a large proportion of the prison population had no access to paid or unpaid work and to recreational, educational and vocational activities. Where available, such activities are often limited to persons in open or semi-open regimes only.

93. The existence of a satisfactory programme of activities is just as important, if not more important, in a high-security unit than in an open regime. It can do much to counter the deleterious effects that living in the bubble-like atmosphere of such a unit has on a prisoner's personality. Engagement in work, recreational, educational and vocational activities is key to reducing violence and improving the skills of persons deprived of liberty so that they may reintegrate into society.[27]

94. **The Subcommittee recommends that the State party increase the variety and frequency of activities proposed to detainees, irrespective of their regime.**

95. **The Subcommittee also recommends providing prisoners with vocational activities. Inmates should have the opportunity to work, for the purpose of maintaining or increasing their ability to earn an honest living after release. Recreational and cultural activities should also be provided in all institutions for the benefit of the mental and physical health of prisoners.**[28]

6. Security classifications

96. The delegation observed that the security classification of convicted inmates into maximum security, closed, semi-open and open regimes was based exclusively on the type of crime committed and the length of the sentence as opposed to a thorough individual assessment of each individual to determine the security risk he or she may pose and his or

[25] Nelson Mandela Rules, rules 4 and 23 (1) and (2), and the European Prison Rules, rules 25.1 and 27.
[26] Nelson Mandela Rules, rule 109.
[27] Ibid., rule 4.
[28] Ibid., rule 105.

her vulnerability or special needs. In addition, the delegation is seriously concerned that in some penitentiaries, such as Iasi prison, children and young persons (18–21 years of age) are detained in maximum security sections. The regime in such sections, with significant high risks of violence, are totally inappropriate for children and young persons and are not relevant for such detainees.

97. **The Subcommittee recommends that the State party revisit its system of classifying convicted detainees into different regimes, with a view to taking into consideration all relevant aspects of a prisoner's personality in addition to the type of crime committed and the length of the sentence. The Subcommittee urges the State party to stop immediately detaining persons under 18 in maximum security sections and find alternatives to detention or place them in semi-open regimes if necessary.**

7. Disciplinary punishment

98. Many inmates interviewed by the delegation complained about the excessive use of sanctions, which at times were deemed disproportionate to the act committed. The delegation was disturbed by testimonies of children who had been punished, including physically, when they denounced their living conditions, asked for a medical visit or complained of violence or abuse. The delegation noted with grave concern that persons attempting suicide, inflicting self-harm or going on hunger strikes were sanctioned because they were in breach of house rules and that collective punishment appeared to be used in some facilities. Finally, children and young persons detained in maximum security sections are given the same sanctions by the prison administration as adults for breaches of discipline.

99. In Iasi prison, detainees had the impression that they were sometimes placed on purpose in cells with detainees they were not getting along with in order to trigger disputes, which would then be sanctioned.

100. **The Subcommittee recommends that the State party encourage the use of alternative dispute resolution mechanisms in detention facilities to prevent disciplinary offences and resolve conflicts. Suicide attempts, self-harm and hunger strikes should be understood as a manifestation of psychological distress requiring special attention and support instead of constituting a breach of disciplinary rules. The State party should ensure that sanctions are proportionate to the act and take into consideration the age and vulnerability of the detainees, and that prisoners have the opportunity to defend themselves.**[29]

8. Solitary confinement

101. The delegation witnessed that persons were often placed in solitary confinement for breaches of house rules, even minor ones, and that such placements, although limited to a maximum of 10 days, and recorded as such, were at times repeated within a short period.

102. The delegation also observed with concern that some detainees with mental disabilities were placed in solitary confinement, sometimes as a protection measure or to alleviate overcrowding.

103. **Given its devastating effect on physical and mental health, solitary confinement should be used only in exceptional cases, as a last resort, for as short a time as possible and pursuant to authorization by a competent authority, and should be subject to independent review.**[30] **The State party should ensure that solitary confinement remains exceptional and that inmates are never placed in solitary confinement for prolonged periods of time (i.e. in excess of 15 consecutive days), including for consecutive placements separated by a few days. Means of restraint should be resorted to on an exceptional basis and should never be used as a disciplinary sanction.**[31] **The placement of persons with mental disabilities in conditions similar to**

[29] Ibid., rules 36–43.
[30] Ibid., rules 43–46.
[31] Ibid.

solitary confinement should be strictly prohibited when their disabilities would be exacerbated by such measures.

9. Instruments of restraint

104. The delegation is concerned at information that in Iasi prison instruments of restraint, that is, handcuffs and "L devices" whereby hands and ankles are cuffed and interlinked by a chain, were imposed on some detainees placed in solitary confinement and that instruments of restraint were systematically imposed on detainees classified as "high risk" for all movements outside their cell. The delegation notes that the use of such instruments is not subject to a maximum time limit.

105. **The Subcommittee recommends that the State party ensure that instruments of restraint are never applied as a punishment, are used only if no lesser form of controlling an actual risk is available and are removed as soon as possible.**[32]

10. Contact with the outside world and visits

106. The delegation observed that in Giurgiu and Aiud prisons, periodic conjugal visits were at times restricted for detainees in closed and maximum security regimes. In Poarta Alba prison, detainees between the ages of 18 and 21 told the delegation they were not entitled to conjugal visits. In all prisons visited, unmarried detainees said it was difficult, expensive and complicated to obtain the notarial act necessary to be eligible for conjugal visits.

107. **The Subcommittee recommends that the State party ensure that all detainees can have, without discrimination, conjugal visits, irrespective of their regime or type of unit. The State party should also consider simplifying the procedure and the requirements to enable conjugal visits for unmarried couples and same-sex partners.**

11. Transfer of prisoners

108. The delegation is concerned about the means of transportation used to transfer women and children detainees from one facility to another. In the van used for transport, in an effort to keep them separated from men, women and children are placed in a small cage-like box measuring about 1 square metre, without any ventilation, heating, water or food, for journeys that can occur often and can be extremely long (up to 12 hours). The Subcommittee considers that such transfers fall short of a humane system of transportation.

109. Furthermore, persons suffering or suspected of having contracted infectious diseases were not kept separated from other detainees during the transfer and no preventive measure was used to avoid the transmission of infectious diseases.

110. **The Subcommittee recommends that the State party review the modes of transportation of prisoners, in particular for women and children, to ensure that detainees are not subject to unnecessary physical hardship, and to prevent the transportation of healthy detainees together with detainees suffering from infectious diseases.**

C. Centres for migrants and asylum seekers

111. The delegation visited two open accommodation centres for asylum seekers, one in Giurgiu and one in Bucharest, which did not raise any concerns.

112. It also visited the specialized immigration detention facilities (the Otopeni Detention Centre for Foreigners in Bucharest), which was housing 42 persons at the time of the visit; maximum capacity for the centre is 164. The delegation found that persons accommodated at the centre were generally locked up all day in their room, with minimum contact with other residents and staff. The Subcommittee notes that the confinement of migrants,

[32] Ibid., rules 43 and 47–49.

[33] Ibid., rule 58.

combined with the lack of information about their status and the uncertainty about their future, may lead to deterioration of their mental health.

113. **The Subcommittee recommends that the State party ensure that migrants accommodated in immigration detention facilities are not locked in their rooms or treated as detainees.**

114. The delegation was informed that the centre was relying on residents to provide interpretation for newcomers, both to provide general information[14] and during medical examinations. The Subcommittee is concerned that such practice is in breach of privacy and medical confidentiality standards and violates the principle of neutrality.

115. **The centre should not rely on relatives, friends or other residents in the facility to provide interpretation during information sessions and medical examinations, but rather should seek assistance from professional interpretation services.**

116. The delegation met two migrants suffering from psychological problems who, despite the presence of a psychologist at the centre, had not been provided with specialized services.

117. **The Subcommittee recommends that a full medical and psychological examination undertaken by specialized professionals be provided for all persons suffering from health and mental health problems. Following the examination, migrants should receive the necessary treatment and their health situation should be taken into consideration in any legal procedure for deportation.**

D. Psychiatric institutions

118. The delegation visited five psychiatric institutions under the Ministry of Health, including institutions for persons whose confinement had been ordered in connection with criminal proceedings, and establishments accommodating patients sanctioned as a result of civil proceedings in addition to those admitted voluntarily. The delegation did not receive allegations of ill-treatment in the institutions visited, but considers that the living conditions prevailing in the security psychiatric hospital in Grajduri amount to cruel and inhumane treatment. The delegation was also disturbed by the living conditions in the psychiatric section of the Emergency Clinical County Hospital of Cluj-Napoca and by the fact that all patients were wearing pyjamas at all times, which is not conducive to improving self-esteem and confidence.

1. Involuntary placement and legal safeguards

119. Involuntary placement in psychiatric facilities is regulated by Law No. 487 of 2002 on mental health (arts. 53–68). It provides important guarantees for patients subject to involuntary placements. In Calarasi, in spite of the fact that patients were not free to leave the hospital at their will, only a few of them had been formally subjected to involuntary placement. The Subcommittee is concerned that this failure to follow the procedure under the law can leave patients without any safeguards against involuntary placement. In addition, it emerged from the consultation of medical files that many patients had not been able to consent to their hospitalization and their treatment and that the relevant forms had been signed by a third party or not signed at all.

120. **The purpose of the involuntary placement procedure is to protect patients who are not in a position to provide their consent at the time of hospitalization, or who do not have the capacity for discernment. The Subcommittee recommends that the medical staff systematically seek to obtain the free and informed consent of the patient for both placement and treatment. When such consent cannot be obtained, staff**

[14] The obligations flowing from the right of access to information require the information to be accessible in a format and language the migrant is known to understand and should not be restricted to general information, but enable the individual to understand his or her situation and rights and available options in this regard.

should resort to the involuntary placement procedure so that patients can benefit from the legal safeguards in place.

121. The delegation was informed that several patients placed in psychiatric hospitals and who had been in various institutions for many years could not be discharged as they had no family and nowhere to go. The Subcommittee is concerned about the lack of intermediate centres for providing social support pending final discharge from an establishment. As a result, many patients in psychiatric hospitals are not there to receive treatment, but because the hospitals to a large extent operate as social welfare centres for persons without resources or a family to support them. The Subcommittee is of the view that the internment of individuals without mental impairments in a psychiatric or psychoneurological institution may amount to inhuman and degrading treatment.

122. **The Subcommittee recommends the adoption of measures, such as the establishment of half-way houses, to ensure that patients do not remain in psychiatric hospitals for socioeconomic rather than medical reasons. The State party should also speed up its efforts to establish community-based services for persons with mental disabilities and with psychosocial disorders to avoid hospitalization. Poverty and the absence of family support should never be a reason for placement in a psychiatric hospital. The State party should develop social support services to help long-term patients reintegrate into society.**

2. Patients admitted by court decision

123. The Penal Code (arts. 109–110) and the Code of Criminal Procedure (arts. 245–248 and 566–572) provide the legal basis and procedures for placement and compulsory treatment imposed on persons lacking legal capacity. The legislation provides that such persons can be hospitalized in a psychiatric hospital with security measures by court decision and on the basis of a medical-forensic examination. The compulsory placement in a medical facility can be imposed on offenders who are mentally ill, addicted to drugs or other substances or who suffer from infectious diseases. The duration is undetermined and can last until recovery. The decision is reviewed every 12 months, on the basis of a medical-forensic examination.

124. The delegation visited the security psychiatric hospital in Grajduri, where all patients had been admitted by court decision. The delegation was disturbed by the living conditions in the institution and the state of desperation of the patients it met. It observed severe overcrowding in all units of the hospital. At the time of the visit, the hospital had 340 patients in facilities with a capacity for 240. Other major problems include staff shortages and the lack of activities for patients. There are too few doctors and nurses, only one psychologist, only one social worker and no occupational therapist. Nurses often have to cope with a great many patients, which places them at risk. Staff members reported that it was not uncommon to have only one or two staff in charge of 100 patients. The delegation observed that, perhaps due to the lack of staff, excessive medication was used to keep patients under control.

125. **The Subcommittee recommends providing the resources necessary to ensure adequate living conditions in the security psychiatric hospital in Grajduri. Immediate measures should be taken to alleviate overcrowding and increase the number of health professionals working with patients detained in such institutions. Health professionals should be qualified and receive training on international human rights standards, particularly the Convention on the Rights of Persons with Disabilities. In addition, the number of psychiatrists, nurses, psychologists, occupational therapists and social assistants should be increased, multidisciplinary care should be provided to the patients and rehabilitation, occupational or recreational activities should be proposed.**

126. More worryingly, health professionals recognized that patients with all kinds of psychiatric illness were placed in the security psychiatric hospital in Grajduri, including persons with intellectual disabilities for whom, according to the professionals, compulsory placement in such an institution would not be necessary. The delegation was also concerned to learn that some of the patients who had recovered, according to the medical assessment,

had not been discharged by the court due to the absence of alternatives to detention and the socioeconomic situation of the patient.

127. **The Subcommittee recommends that a nationwide assessment of all patients detained in such hospitals be undertaken. Furthermore, the State party should examine, as a matter of priority, ways to establish community-based services in order to discharge patients from the security psychiatric hospital when they have recovered.**

128. The Subcommittee is seriously concerned at the findings of the investigation conducted by the Centre for Legal Resources between 2014 and 2015 on the rights of children and young people with disabilities in Romania. In particular, it is concerned about the number of persons with disabilities who died in institutions in the four years preceding the study — 4,600 persons with disabilities, including 1,500 children and young people — and that the police and/or the Public Prosecutor were notified of fewer than 10 of those deaths. The Subcommittee is also concerned about the information provided by the State party that complaints of abuse in social centres, which are under the authority of the Ministry of Health, are complicated to lodge and not effective (see also CAT/C/ROU/CO/2, para. 14 (a)).

129. **The Subcommittee echoes the Committee against Torture recommendation that the State party should amend legislation in order to provide persons with mental and psychosocial disabilities with the right to legal capacity and to ensure the effective supervision and monitoring by judicial organs of any placement in psychiatric hospitals and institutions of persons with mental and psychosocial disabilities (see CAT/C/ROU/CO/2, para. 14 (a)). The State party should establish a special complaints mechanism for persons placed in such institutions to ensure that patients are granted independent legal representation enabling them to have their complaints examined before a court or another independent body and provide redress to victims. Notifications of the death of institutionalized persons should systematically be transmitted to the police and/or the Public Prosecutor and a prompt and effective investigation into the circumstances of the death should be undertaken.**

VII. Follow-up and dissemination

130. **The Subcommittee recommends that, given the preventive effect of such a measure, the State make the present report public, as mentioned in paragraph 6 above. In addition, the Subcommittee recommends that the State party disseminate the report among the relevant institutions in all branches of government.**

131. **The Subcommittee recalls that the present report represents only the first stage of a constructive dialogue with the Romanian authorities on the above-mentioned issues. The Subcommittee requests the State party to reply, in writing, within six months of the date of the transmission of the report, providing a full account of the actions it has taken and that it proposes to take to implement the Subcommittee's recommendations.**

Annex I

List of places of deprivation of liberty visited by the Subcommittee

Ministry of Justice

1. Giurgiu penitentiary
2. Poarta Alba penitentiary
3. Aiud penitentiary
4. Gherla penitentiary
5. Iasi penitentiary
6. Botosani penitentiary
7. Târgsoru penitentiary
8. Cluj female facility (female section of Gherla penitentiary)

Ministry of Interior

1. Center no. 1 of Bucharest, Police General Directorate
2. Center no. 10 of Bucharest Police General Directorate, 19 Police Station
3. Center no. 12 of Bucharest Police General Directorate, Regional Transport Police Service Bucharest, Cluj Police station
4. Detention and provisional arrest centre of Iasi, Country Police Inspectorate
5. Botosani Country Police Inspectorate
6. Botosani Border Police
7. Bucharest Otopeni accommodation center for migrants
8. Centre for Accommodation and Asylum Procedures Giurgiu
9. Regional Centres for Accommodation and Asylum Procedures in Bucharest
10. Local police section no. 1, Bucharest (Calea Grivitei 208)

Ministry of Labour, Family, and Social Protection

1. Giurgiu retirement home
2. Gherla retirement home

Giurgiu family-type accommodation for children:

3. Sos. Balanoaiei, nr.31, Giurgiu, Tel 0762247709, Bulichi Rodica
4. Str. Selari nr. 27, Jud Giurgiu, 0762247726, Costea Daniela
5. Str. Murelor, nr.36, Giurgiu, tel0762247710, Bulichi Rodica

Ministry of Health

1. Security Psychiatric Hospital, Calarasi
2. Psychiatric section of Cluj-Napoca Emergency Clinical County Hospital
3. Institute of Psychiatry, Iasi
4. Institute of Psychiatry for long term care, Grajduri
5. Security Psychiatric Hospital, Grajduri

Annex II

Officials and other persons with whom the delegation met

Ministry of Justice

Gabriela SCUTEA, Secretary of State

Cătălin BEJAN, General Director, National Administration of Penitentiaries

Iulia CÂRBUNARU, Legal Advisor, Probation Department

Rusla GLEAMANU, Legal Advisor, Department for the Elaboration of Normative Acts

Crina MORTEANU, Advisor to the Minister

Anca STOICA, Director, Department of European Affairs

Mădălina MANOLACHE, Legal Advisor

Ministry of Internal Affairs

General Inspectorate of Romanian Police

Dumitru JIANU, Deputy General Inspector

Marin CĂMINISTEANU, Head of Unit, Legal Directorate

Claudiu IARU, Head of Unit for Coordination of Preventive Arrests Centers

General Inspectorate of Border Police

Dana HUTUL, Head of Unit for Expertize on Travel Documents and Forensics

General Inspectorate of Romanian Gendarmerie

Viorel SĂLAN, Deputy General Inspector

Victor Viorel LAMBĂ, Expert

General Inspectorate for Immigration

Viorel VASILE, General Inspector

Ioan PUHACE, Deputy General Inspector

Mircea BABĂU, Director, Asylum and Integration Directorate

Victor GÂNDAC, Director, Migration Directorate

National Anti-drug Agency

Gina CUSA, Deputy Director

Diana SERBAN, Head of Unit

Police Academy

David UNGUREANU, Expert

Directorate General for Operational Management

Cornel CIOCOIU, General Director

Medical Directorate

Sorin LAMER, Head of Unit

Dorinela URSULEANU, Head of Unit

Directorate General for Management of Human Resources

Macoveli OVIDIU, Deputy General Director

Legal Directorate General

Lucia IACOB, Head of Unit

Gabriel CRACIUN, Expert

Directorate for European Affairs and International Relations

Cătălin NECULA, Deputy Director

Claudia VISOIU, Expert

Ministry of Labour

Valeriu NICOALE, Secretary of State

Gabriela COMAN, President, National Authority for Children Protection

Ivona BATALI, General Director, General Department of External Relations

Cristina ONCICĂ, Superior Counsellor, General Department of External Relations

Ministry of Health

Iulian Chiriac, Secretary of State

Sorin LUCA, General Director, DGAMPP

Costin ILIUȚĂ, Head of Department, DGAMPP

Daniela ENACHE, Secretary's Advisor

Ileana BOTEZAT-ANTONESCU, Director, CNSMLA

Raluca NICA, Psychologist, CNSMLA

Marilena MITICA, Social Assistant, CNSMLA

Gabriel GOICEANU, Legal Advisor, CNSMLA

Office of the People's Advocate

Victor CIORBEA, People's Advocate

Magda Constanța ȘTEFĂNESCU, Deputy People's Advocate — prevention of torture in places of detention

Emma TURTOI, Head of Bureau — Constitutional Contentious and Appeal in the interest of the Law Bureau

Andreea Elena BĂICOIANU, Head of Bureau — legal acts, external relations and communication Bureau

Andrei PLĂVEȚ, Counsellor — translator

National Preventive Mechanism

Magda Constanța ȘTEFĂNESCU, Deputy People's Advocate — the Field on the prevention of torture in places of detention

Nicoleta CONSTANTINESCU, expert

Mihaela SÎRBU, Counsellor

Nicolae VOICU, Counsellor

Anne-Marie BROWNE, Counsellor

Elena CIOBANU, Counsellor

Felicia BOLAN, Counsellor Alba Zonal Centre

Maria LUPADATU, counsellor Bacău Zonal Centre

Lucian MOSOIU, counsellor Craiova Zonal Centre

United Nations

Sandie BLANCHET, UNICEF Romania, Acting Resident Coordinator

Civil Society

Maria Nicoleta ANREI SCU, Executive Director, APADOR — CH

Cristinel BUZATU, Jurist Expert, APADOR — CH

Georgiana PASCU, Programme Manager, Advocate for Dignity - Human Rights Centre for Legal Resources (CLR)

Teodora Ion ROTARU, ACCEPT Association

Anca BUCAR, Psychologist, ICAR Foundation